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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,632	04/17/2001	David A. Hughes	50P4090	7227
24337	7590	03/31/2004	EXAMINER	
MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			GART, MATTHEW S	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/836,632

Applicant(s)

HUGHES ET AL.

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-41 are rejected under 35 U.S.C. 102(e) as being anticipated by**

**Fritsch U.S. Patent 6,233,682.**

Referring to claim 1. Fritsch discloses a method for facilitating a transaction for purchasable content over an electronic network, the purchasable content including downloadable digital data, the method comprising:

- Maintaining a first presence on the electronic network to which a consumer may connect (Fritsch: Figure 1A shows an illustration of the video display screen as viewed by the PC user after connecting to the vendor's web site for distributing musical products);
- Transmitting a first page from the first presence to the consumer over the electronic network, the first page including information concerning the purchasable content (Fritsch: Figure 1A shows an illustration of the video display screen as viewed by the PC user after connecting to the vendor's web site for distributing musical products);

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- Receiving a command from the consumer over the electronic network indicating that the consumer wishes the transaction for the purchasable content (Fritsch: Abstract, "If the PC user then wishes to purchase the song, she can submit her order by clicking on the icons located next to each song/album"); and
- Automatically linking the consumer to a second presence on the electronic network in response to the command such that a second page is transmitted from the second presence to the consumer over the electronic network, the second page including information concerning how to complete the transaction for the purchasable content, and such that the consumer may complete the transaction for the purchasable content from the second presence (Fritsch: Figure 1E illustrates in detail the shopping basket containing the desired items).

Referring to claim 2. Fritsch further discloses a method comprising displaying the first page in a first window and the second page in a second window (Fritsch: Figure 1A, Figure 1C and Figure 1E).

Referring to claim 3. Fritsch further discloses a method wherein the first and second windows are displayed simultaneously on a monitor (Fritsch: Abstract, "The order will be reflected in the shopping basket, always visible on the screen.").

Referring to claim 4. Fritsch further discloses a method wherein the first window is branded by a first entity and the second window is branded by a second entity (Fritsch: Figure 1A and Figure 1E).

Referring to claim 5. Fritsch further discloses a method wherein the second window is activated when the second page is received by the consumer over the

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electronic network and the first window is not active when the second window is activated (Fritsch: column 4, lines 5-28).

Referring to claim 6. Fritsch further discloses a method wherein the second window is closed when the transaction for the purchasable content is completed (Fritsch: column 4, lines 5-28).

Referring to claim 7. Fritsch further discloses a method comprising automatically linking the consumer to the first presence on the electronic network when the transaction for the purchasable content is complete (Fritsch: column 4, line 47 to column 5, line 9).

Referring to claim 8. Fritsch further discloses a method comprising automatically linking the consumer to a third presence on the electronic network when the transaction for the purchasable content is complete (Fritsch: Figure 1D).

Referring to claim 9. Fritsch further discloses a method wherein the purchasable content includes at least one of downloadable digital data and physical storage media (Fritsch: Figure 1D).

Referring to claim 10. Fritsch further discloses a method wherein the physical storage media include at least one of optically readable media, magnetically readable media, and mechanically readable media (Fritsch: Abstract).

Referring to claim 11. Fritsch further discloses a method wherein an entity associated with the first presence does not have custody of the downloadable digital data (Fritsch: Abstract).

Referring to claim 12. Fritsch further discloses a method wherein an entity associated with the second presence has custody of the purchasable content (Fritsch: Abstract).

Referring to claim 13. Fritsch further discloses a method wherein the second page includes at least one of: (i) registration inputs for registering the consumer; (ii) login inputs for permitting the consumer access to further portions of the second page; (iii) summary information including at least one of a list of the purchasable content selected by the consumer, and remittance information for the purchasable content selected by the consumer; and (iv) billing inputs for receiving information from the consumer concerning a remittance method (Fritsch: Figure 1E).

Referring to claim 14. Fritsch further discloses a method wherein the summary information and the billing inputs are included on the further portions of the second page (Fritsch: Figure 1E).

Referring to claim 15. Fritsch further discloses a method wherein the electronic network is the Internet and the first and second presences are respective web sites thereon (Fritsch: Abstract).

Referring to claim 16. Fritsch further discloses a method comprising allowing the consumer to browse a first presence on the electronic network to obtain information concerning the purchasable content (Fritsch: Abstract).

Referring to claims 17-27. Claims 17-27 are rejected under the same rationale as set forth above in claims 1-16.

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Referring to claims 28-41. Claims 28-41 are rejected under the same rationale as set forth above in claims 1-16.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jones, U.S. Patent No. 6,697,944B1, February 24, 2004, discloses a digital content distribution, transmission and protection system and method, and portable device for use therewith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew s Gart whose telephone number is 703-305-5355. The examiner can normally be reached on 8:30AM to 5:00PM m-f.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSG

March 25, 2004



Jeffrey A. Smith  
Primary Examiner